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Attorneys for Defendant,  
Patrick Byrne

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

ROBERT HUNTER BIDEN, an  
individual,

Plaintiff,

vs.

PATRICK M. BYRNE, an individual,

Defendant.

Case No.: 2:23-cv-09430-SVW-PD  
Judge: Honorable Stephen V. Wilson  
Courtroom: "10A"

Complaint Filed: November 8, 2023

**DEFENDANT'S OPPOSITION TO  
PLAINTIFF'S MOTION IN LIMINE  
NO. 2 TO EXCLUDE EVIDENCE  
OF THE SO-CALLED "LAPTOP"  
AND ANY OF ITS PURPORTED  
CONTENTS; MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT THEREOF**

Date: July 21, 2025  
Time: 3:00 p.m.  
Courtroom: "10A"

1.

**DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION IN LIMINE NO. 2 TO EXCLUDE EVIDENCE OF THE  
SO-CALLED "LAPTOP"; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF**

**TO ALL PARTIES AND THEIR ATTORNEY'S OF RECORD:**

Defendant Patrick Byrne opposes Plaintiff's Motion in Limine No. 2 on the grounds that the motion is untimely, that the evidence sought is relevant to Plaintiff's reputation for truthfulness and whether Plaintiff engaged in the kind of corruption identified in Defendant's statements. Truth is an absolute defense to an accusation of Defamation. If anything in the "Laptop" confirms Plaintiff's actions in relation to the statements Defendant made prepublication, then Plaintiff's claim for defamation must fail. Further the Court held that even if the information was relevant, Plaintiff's opinions about the contents and whether Plaintiff knew they did was a "chain of custody" issue that would have been cumulative of Plaintiff's deposition.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION AND RELEVANT BACKGROUND**

Plaintiff's motion here is untimely. Plaintiff should have known by the conclusion of fact discovery and when the trial documents were initially filed whether he wanted to exclude this evidence. Defendant took Plaintiff's deposition on Friday, August 16, 2024. There is no reason why Plaintiff waited until just before the upcoming continued trial date to file this motion. Plaintiff should have met and conferred and filed the motion prior to the November 25, 2024, Pretrial conference date. Or, at the very least, he should have met and conferred sooner after the Court's March 18, 2025, Order denied Defendant the opportunity to reopen Plaintiff's deposition to ask questions related to the laptop.

Further, whether Plaintiff engaged in the conduct alleged in the statements is relevant, and whether the laptop contains evidence corroborating the statements is relevant because truth is a defense to defamation. Similarly, the evidence on the laptop is relevant to Plaintiff's reputation because the evidence will form the basis for others' opinions of Plaintiff. The contents of the laptop have been in the public forum for some time, and the opinions of others in relation to the contents are

1 relevant to the issue of actual malice.

2 Finally, Plaintiff failed to properly meet and confer before filing this motion.  
3 Plaintiff sent an email to Defendant's counsel at 11:01 am on Monday, June 23,  
4 2025. Plaintiff then went ahead and filed the motion the same day as his "meet and  
5 confer" "attempt." Defendant had no chance to discuss the motion or the subject of  
6 the motion with Plaintiff. The Local Rules require the "meet and confer"  
7 conference to occur at least 7 days before the motion is filed, but Plaintiff barely  
8 afforded Defendant a few hours to even see the email.

## 9 **II. LEGAL ARGUMENT**

### 10 **A. Plaintiff's Motion is Untimely**

11 All pretrial documents needed to be filed prior to the Pretrial Conference  
12 originally scheduled for November 25, 2024 pursuant to Local Rule 16, *et seq.*  
13 Defendant filed his motions in limine on November 6, 2024, but as of the Final  
14 Pretrial Order, jointly prepared by the parties and filed by Plaintiff on November  
15 14, 2024, Plaintiff filed no motions in limine, and Plaintiff did not indicate he  
16 intended to do so.

17 Plaintiff's motion involves evidence he wishes to exclude based on evidence  
18 he knew Defendant sought as far back as August of 2024. Plaintiff should have  
19 known as of the date of his deposition the information he wanted excluded prior to  
20 the date the trial was originally set and should have filed this motion sooner, or at  
21 the very least Plaintiff should have met and conferred with Defendant's counsel  
22 sooner, preferably shortly after the Court denied Defendant's ex parte application  
23 to reopen Plaintiff's deposition on March 18, 2025. Moreover, when the Court  
24 continued the Trial dates and the Pretrial Conference dates, it did so while limiting  
25 the evidence Plaintiff could seek from Defendant and other witnesses. The Court  
26 also allowed the parties to revise the trial documents based on evidence they  
27 obtained pursuant to the Court's orders. This did not, however, allow the parties to  
28 reopen all deadlines, and to file motions and pretrial documents with evidence and

1 information previously known to the parties.

2 Based on the foregoing, it is respectfully requested that the Court deny  
3 Plaintiff's motion.

4 **B. Plaintiff's Laptop is Relevant**

5 While Plaintiff is not seeking special damages, he is still seeking  
6 compensation in the form of nominal damages for Defendant's statements. Plaintiff  
7 seeks to improperly issue a blanket limitation on the evidence Defendant can  
8 present in his defense. The Court did not specifically ban Defendant from  
9 exploring the contents of the laptop. Rather, the Court found that Plaintiff's  
10 opinions and commentary on the contents were irrelevant and would be cumulative  
11 because Plaintiff could not confirm whether the information asked about at his  
12 deposition actually came from Plaintiff's laptop. However, the "laptop" and  
13 associated documents are relevant because they form the foundation for the  
14 public's opinion and the defendant's opinion about Plaintiff and his reputation  
15 before he published the alleged defamatory statements. As the Court noted in its  
16 order denying Defendant's motion to reopen Plaintiff's deposition, Plaintiff's  
17 reputation is relevant to his claim for damages and to the issue of actual malice.  
18 Issuing a blanket prohibition on this evidence would prejudice Defendant's ability  
19 to put on corroborating evidence that Plaintiff had a poor reputation, and that poor  
20 reputation was the result of actions Plaintiff took which reputation Defendant  
21 relied on as true and formed the decision to publish the alleged defamatory article.  
22 Plaintiff's "laptop" and the contents therein have been written about and discussed  
23 in the public forum for several years and long before Defendant published his  
24 article.

25 **C. Plaintiff Failed to Appropriately Meet and Confer**

26 Local Rule 7-3 requires the parties to meet and confer before filing motions.  
27 Plaintiff sent an email to opposing counsel to "meet and confer" at 11:01 am on  
28 Monday, June 23, 2025. Plaintiff then filed the motion only a few hours later,

1 leaving insufficient time for Defendant’s counsel to even respond to Plaintiff’s  
2 email, or to discuss Plaintiff’s motion further. Plaintiff’s motion violates Local  
3 Rule 7-3 because the Rule requires the party to meet and confer at least *7 days*  
4 before filing the motion in question. Here, Plaintiff filed the motion *the same day*  
5 as his counsel’s “meet and confer” email. Moreover, Plaintiff’s declaration fails to  
6 outline the date of the meet and confer conference between the parties, and their  
7 respective positions. Plaintiff’s motion and declaration do state that Defendant did  
8 not advise whether he would oppose, but that is because Plaintiff did not give  
9 Defendant’s counsel a chance to respond before Plaintiff’s counsel filed the  
10 motion.

### 11 **III. CONCLUSION**

12 Based on the foregoing, Defendant respectfully requests that this Court deny  
13 Plaintiff’s motion.

14  
15 Dated: July 2, 2025

LAW OFFICES OF MICHAEL C. MURPHY

16  
17 By: /s/ Michael C. Murphy, Esq.

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20 Michael C. Murphy, Esq.  
21 Michael C. Murphy, Jr., Esq.  
22 Attorneys for Defendant, Patrick  
23 Byrne  
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